

ESTTA Tracking number: **ESTTA654668**Filing date: **02/09/2015**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**Notice of Opposition**

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	Desnoes & Geddes, Limited
Granted to Date of previous extension	02/11/2015
Address	214 Spanish Town Road Kingston, 11 JAMAICA
Attorney information	Evan Gourvitz Ropes & Gray LLP 1211 Avenue of the Americas New York, NY 10036 UNITED STATES trademarks@ropesgray.com, evan.gourvitz@ropesgray.com Phone:212-596-9639

Applicant Information

Application No	86330407	Publication date	10/14/2014
Opposition Filing Date	02/09/2015	Opposition Period Ends	02/11/2015
Applicant	Garden Island Brewing Company, LLC 341A Kaulana Road Kapaa, HI 96746 UNITED STATES		

Goods/Services Affected by OppositionClass 032. First Use: 2014/04/04 First Use In Commerce: 2014/07/07
All goods and services in the class are opposed, namely: Beer, ale and lager**Grounds for Opposition**

Priority and likelihood of confusion	Trademark Act section 2(d)
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Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	1546654	Application Date	07/07/1988
Registration Date	07/04/1989	Foreign Priority Date	NONE
Word Mark	DRAGON		
Design Mark			
Description of	NONE		

Mark	
Goods/Services	Class 032. First use: First Use: 1923/00/00 First Use In Commerce: 1978/00/00 BEER

U.S. Registration No.	1387709	Application Date	10/18/1984
Registration Date	03/25/1986	Foreign Priority Date	NONE

Word Mark	DRAGON STOUT
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Design Mark	
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Description of Mark	NONE
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Goods/Services	Class 032. First use: First Use: 1923/00/00 First Use In Commerce: 1978/00/00 BEER
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Attachments	73504400#TMSN.png(bytes) Notice of Opposition.pdf(3036105 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Evan Gourvitz/
Name	Evan Gourvitz
Date	02/09/2015

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

DESNOES & GEDDES LIMITED,)	
	)	Opposition No.
Opposer,	)	Application Serial No. 86/330,407
	)	Published in the Official
v.	)	Gazette of October 14, 2014
GARDEN ISLAND BREWING COMPANY,	)	MAGIC DRAGON ALE
)	
Applicant.)	

NOTICE OF OPPOSITION

Opposer Desnoes & Geddes Limited (“Opposer”) believes that it will be damaged by the registration of MAGIC DRAGON ALE for “[b]eer, ale and lager” in International Class 32, as shown in the above-noted application, Serial No. 86/330,407, and hereby opposes the same pursuant to Section 13(a) of the Trademark Act of 1946, as amended (the “Lanham Act”), 15 U.S.C. 1063(a).

As grounds for the opposition, Opposer avers as follows:

1. Opposer Desnoes & Geddes Limited is a Jamaican limited liability company with its principal place of business located at 214 Spanish Town Road, Kingston 11 Jamaica.
2. Opposer has used its DRAGON and DRAGON STOUT word and design marks (collectively, the “DRAGON Marks”) in commerce in the United States in connection with beer since at least as early as 1978.
3. During its continuous use of its DRAGON Marks, Opposer and its authorized wholesalers, distributors, and retail accounts have expended considerable time, effort and money in advertising and publicizing the sale of beer bearing the DRAGON Marks in the United States.

4. During its continuous use of its DRAGON Marks, Opposer has directly and indirectly sold and offered for sale beer bearing the DRAGON Marks throughout the United States.

5. During its continuous use of its DRAGON Marks, Opposer has directly and indirectly sold and offered for sale beer bearing the DRAGON Marks to wholesalers, distributors, and individuals over the legal purchase age for alcohol throughout the United States.

6. In addition to Opposer's common law rights in its DRAGON Marks, Opposer owns U.S. Trademark Registration No. 1,546,654 for DRAGON for "beer" in International Class 32, registered July 4, 1989 based on a first use date of 1923 and a first use in commerce date of 1978, and U.S. Registration No. 1,387,709 for DRAGON STOUT and design for "beer" in International Class 32, registered March 25, 1986 based on a first use date of 1923 and a first use in commerce date of 1978. Copies of the certificates and electronic status records for these registrations, which are valid, subsisting, and in full force and effect, are attached hereto as Exhibit A.

7. Upon information and belief, Applicant Garden Island Brewing Company ("Applicant") is a Hawaii limited liability company with an address of 341A Kaulana Road, Kapaa, Hawaii 96746.

8. By the application herein opposed, Serial No. 86/330,407 (the "Application"), Applicant seeks to register the mark MAGIC DRAGON ALE for "[b]eer, ale and lager" in International Class 32.

9. Applicant filed the Application on July 8, 2014 claiming a first use date of April 4, 2014, long after Opposer commenced use of and registered its DRAGON Marks in the United States.

10. Applicant's MAGIC DRAGON ALE mark is confusingly similar to Opposer's DRAGON Marks.

11. The goods for which Applicant seeks registration are identical to or overlap with those in connection with which Opposer uses and has used its DRAGON Marks in the United States.

12. Upon information and belief, the goods sold in connection with Opposer's DRAGON Marks and the goods set forth in Applicant's Application are intended to be directed to similar or identical classes of purchasers and to be distributed through the same or similar channels of trade in the United States.

13. Opposer will be damaged by the registration sought by Applicant because such registration will support and assist Applicant in the confusing and misleading use of the mark sought to be registered, and will give color of exclusive statutory rights to Applicant in violation and derogation of the prior and superior rights of Opposer.

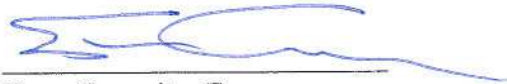
14. Registration should be refused pursuant to Section 2(d) of the Lanham Act, 15 U.S.C. § 1052(d), on the grounds that Applicant's applied-for mark so resembles Opposer's prior-used and registered DRAGON Marks as to be likely, when used in connection with the goods identified in the Application, to cause confusion, or to cause mistake, or to deceive as to the source, sponsorship, or affiliation of Applicant's goods within the meaning of Section 2(d) of the Trademark Act, 15 U.S.C. § 1052(d).

For the foregoing reasons, Applicant's alleged mark is not entitled to registration on the Principal Register under Section 2 of the Lanham Act of 1946, 15 U.S.C. § 1052.

WHEREFORE, Opposer prays that Application Serial No. 86/330,407 be rejected, that no registration be issued thereon to Applicant, and that this opposition be sustained in favor of Opposer.

Opposer hereby appoints Ropes & Gray LLP to act as its attorney with full power to prosecute this opposition, to transact all relevant business with the Patent and Trademark Office, and to receive all official communications with respect to this opposition.

Respectfully submitted,



Evan Gourvitz, Esq.
ROPES & GRAY LLP
1211 Avenue of the Americas
New York, NY 10036-8704
evan.gourvitz@ropesgray.com
trademarks@ropesgray.com

Attorney for Desnoes & Geddes Limited

Dated: February 9, 2015

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

DESNOES & GEDDES LIMITED,	)	Opposition No.
Opposer,	)	Application Serial No. 86/330,407
v.	)	Published in the Official
GARDEN ISLAND BREWING COMPANY,	)	Gazette of October 14, 2014
Applicant.	)	MAGIC DRAGON ALE

Certificate of Service

I hereby certify that on this 9th day of February, 2015, a true copy of this Notice of Opposition was served upon Applicant by first class mail, postage prepaid, addressed as follows:

Garden Island Brewing Company, LLC
341A Kaulana Rd
Kapaa, Hawaii 96746-1225

/nicole mollica/
Nicole Mollica
ROPES & GRAY LLP

EXHIBIT A

[STATUS](#) [DOCUMENTS](#)
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Mark: DRAGON STOUT



US Serial Number: 73504400

Application Filing Date: Oct. 18, 1985

US Registration Number: 1387709

Registration Date: Mar. 25, 1985

Register: Principal

Mark Type: Trademark

Status: The registration has been renewed.

Status Date: May 15, 2006

Publication Date: Dec. 31, 1985

Mark Information

Mark Literal Elements: DRAGON STOUT

Standard Character Claim: No

Mark Drawing Type: 3 - AN ILLUSTRATION DRAWING WHICH INCLUDES WORD(S)/ LETTER(S)/NUMBER(S)

Color(s) Claimed: Color is not claimed as a feature of the mark.

Lining and Stippling Statement: THE DRAWING IS LINED FOR THE COLOR RED, GOLD AND BROWN.

Disclaimer: "STOUT"

Design Search Code(s): 01.15.03 - Fire (flames), other than emanating from objects, words, numbers, fireplaces or candles
 emanating from objects, words, numbers, fireplaces or candles
 01.15.15 - Fire (flames), emanating from objects, words or numbers
 04.05.01 - Griffons; Dragons
 26.03.17 - Ovals, concentric; Ovals within ovals; Concentric ovals; Concentric ovals and ovals v
 26.03.21 - Ovals that are completely or partially shaded

Goods and Services

Note:

The following symbols indicate that the registrant/owner has amended the goods/services:

- Brackets [...] indicate deleted goods/services;
- Double parenthesis ((...)) identify any goods/services not claimed in a Section 15 affidavit of incontestability; and
- Asterisks *..* identify additional (new) wording in the goods/services.

For: BEER**International Class(es):** 032 - Primary Class**U.S Class(es):** 048**Class Status:** ACTIVE**Basis:** 1(a)**First Use:** 1923**Use in Commerce:** 1978**Basis Information (Case Level)****Current Owner(s) Information****Owner Name:** DESNOES & GEDDES, LTD.**Owner Address:** 214 SPANISH TOWN ROAD
KINGSTON 11
JAMAICA**Legal Entity Type:** LIMITED LIABILITY COMPANY**State or Country Where
Organized:** JAMAICA**Attorney/Correspondence Information****Prosecution History**

Date	Description	Proceeding Number
Apr. 04, 2014	CERTIFICATE OF CORRECTION ISSUED	77315
Mar. 22, 2014	SEC 7 REQUEST FILED	77315
Apr. 04, 2014	CASE ASSIGNED TO POST REGISTRATION PARALEGAL	77315
Mar. 22, 2014	TEAS SECTION 7 REQUEST RECEIVED	
Jan. 08, 2009	NOTICE OF DESIGN SEARCH CODE MAILED	
Jun. 05, 2008	CASE FILE IN TICRS	
May 15, 2006	REGISTERED AND RENEWED (FIRST RENEWAL - 10 YRS)	60234
May 15, 2006	REGISTERED - SEC. 8 (10-YR) ACCEPTED/SEC. 9 GRANTED	
May 02, 2006	ASSIGNED TO PARALEGAL	60234
Jan. 20, 2006	REGISTERED - COMBINED SECTION 8 (10- YR) & SEC. 9 FILED	
Jan. 20, 2006	TEAS SECTION 8 & 9 RECEIVED	
Sep. 11, 1991	REGISTERED - SEC. 8 (6-YR) ACCEPTED & SEC. 15 ACK.	

May 08, 1991	REGISTERED - SEC. 8 (6-YR) & SEC. 15 FILED
Apr. 28, 1989	CERTIFICATE OF CORRECTION ISSUED
Mar. 20, 1989	SEC 7 REQUEST FILED
Mar. 25, 1986	REGISTERED-PRINCIPAL REGISTER
Dec. 31, 1985	PUBLISHED FOR OPPOSITION
Dec. 01, 1985	NOTICE OF PUBLICATION
Nov. 05, 1985	APPROVED FOR PUB - PRINCIPAL REGISTER
Oct. 28, 1985	CORRESPONDENCE RECEIVED IN LAW OFFICE
Aug. 28, 1985	NON-FINAL ACTION MAILED
Aug. 19, 1985	ALLOWANCE/COUNT WITHDRAWN
Jul. 25, 1985	CORRESPONDENCE RECEIVED IN LAW OFFICE
Jan. 29, 1985	NON-FINAL ACTION MAILED
Jan. 08, 1985	ASSIGNED TO EXAMINER

Maintenance Filings or Post Registration Information

TM Staff and Location Information

Assignment Abstract Of Title Information - Click to Load

Proceedings - Click to Load

United States of America

United States Patent and Trademark Office



Reg. No. 1,387,709

DESNOES & GEDDES, LTD. (JAMAICA LIMITED LIABILITY COMPANY)
214 SPANISH TOWN ROAD
KINGSTON 11, JAMAICA

Registered Mar. 25, 1986

Corrected May 13, 2014 FOR: BEER, IN CLASS 32 (U.S. CL. 48).

Int. Cl.: 32

FIRST USE 0-0-1923; IN COMMERCE 0-0-1978.

TRADEMARK

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "STOUT", APART FROM THE MARK AS SHOWN.

PRINCIPAL REGISTER

THE DRAWING IS LINED FOR THE COLOR RED, GOLD AND BROWN.

SER. NO. 73-504,400, FILED 10-18-1984.



Michelle K. Lee

Deputy Director of the United States
Patent and Trademark Office

**REQUIREMENTS TO MAINTAIN YOUR FEDERAL
TRADEMARK REGISTRATION**

**WARNING: YOUR REGISTRATION WILL BE CANCELLED IF YOU DO NOT FILE THE
DOCUMENTS BELOW DURING THE SPECIFIED TIME PERIODS.**

Requirements in the First Ten Years*
What and When to File:

First Filing Deadline: You must file a Declaration of Use (or Excusable Nonuse) between the 5th and 6th years after the registration date. *See* 15 U.S.C. §§1058, 1141k. If the declaration is accepted, the registration will continue in force for the remainder of the ten-year period, calculated from the registration date, unless cancelled by an order of the Commissioner for Trademarks or a federal court.

Second Filing Deadline: You must file a Declaration of Use (or Excusable Nonuse) **and** an Application for Renewal between the 9th and 10th years after the registration date.*
See 15 U.S.C. §1059.

Requirements in Successive Ten-Year Periods*
What and When to File:

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Grace Period Filings*

The above documents will be accepted as timely if filed within six months after the deadlines listed above with the payment of an additional fee.

**The United States Patent and Trademark Office (USPTO) will NOT send you any future notice or
reminder of these filing requirements.**

***ATTENTION MADRID PROTOCOL REGISTRANTS:** The holder of an international registration with an extension of protection to the United States under the Madrid Protocol must timely file the Declarations of Use (or Excusable Nonuse) referenced above directly with the USPTO. The time periods for filing are based on the U.S. registration date (not the international registration date). The deadlines and grace periods for the Declarations of Use (or Excusable Nonuse) are identical to those for nationally issued registrations. *See* 15 U.S.C. §§1058, 1141k. However, owners of international registrations do not file renewal applications at the USPTO. Instead, the holder must file a renewal of the underlying international registration at the International Bureau of the World Intellectual Property Organization, under Article 7 of the Madrid Protocol, before the expiration of each ten-year term of protection, calculated from the date of the international registration. *See* 15 U.S.C. §1141j. For more information and renewal forms for the international registration, see <http://www.wipo.int/madrid/en/>.

NOTE: Fees and requirements for maintaining registrations are subject to change. Please check the USPTO website for further information. With the exception of renewal applications for registered extensions of protection, you can file the registration maintenance documents referenced above online at <http://www.uspto.gov>.

[STATUS](#)[DOCUMENTS](#)[Back to Search](#)[Print](#)**Generated on:** This page was generated by TSDR on 2015-02-06 14:08:37 EST**Mark:** DRAGONNo Image exists
for this case.**US Serial Number:** 73738561**Application Filing Date:** Jul. 07, 19**US Registration Number:** 1546654**Registration Date:** Jul. 04, 19**Register:** Principal**Mark Type:** Trademark**Status:** The registration has been renewed.**Status Date:** Apr. 08, 2009**Publication Date:** Mar. 28, 1989

Mark Information

Mark Literal Elements: DRAGON**Standard Character Claim:** No**Mark Drawing Type:** 1 - TYPESET WORD(S) /LETTER(S) /NUMBER(S)

Related Properties Information

Goods and Services

Note:

The following symbols indicate that the registrant/owner has amended the goods/services:

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Apr. 08, 2009	REGISTERED AND RENEWED (FIRST RENEWAL - 10 YRS)	66607
Apr. 08, 2009	REGISTERED - SEC. 8 (10-YR) ACCEPTED/SEC. 9 GRANTED	
Apr. 06, 2009	ASSIGNED TO PARALEGAL	66607
Apr. 03, 2009	TEAS SECTION 8 & 9 RECEIVED	
Aug. 25, 2008	CASE FILE IN TICRS	
Nov. 07, 1995	REGISTERED - SEC. 8 (6-YR) ACCEPTED & SEC. 15 ACK.	
Mar. 10, 1995	REGISTERED - SEC. 8 (6-YR) & SEC. 15 FILED	
Jul. 04, 1989	REGISTERED-PRINCIPAL REGISTER	
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Sep. 21, 1988

ASSIGNED TO EXAMINER

62343

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United States of America

United States Patent and Trademark Office

DRAGON

Reg. No. 1,546,654

DESNOES & GEDDES, LTD. (JAMAICA LIMITED LIABILITY COMPANY)
214 SPANISH TOWN ROAD
KINGSTON, JAMAICA 11

Registered July 4, 1989

Corrected May 13, 2014 FOR: BEER, IN CLASS 32 (U.S. CL. 48).

Int. Cl.: 32

FIRST USE 0-0-1923; IN COMMERCE 0-0-1978.

TRADEMARK

OWNER OF U.S. REG. NO. 1,387,709.

PRINCIPAL REGISTER

SER. NO. 73-738,561, FILED 7-7-1988.



Michelle K. Lee

Deputy Director of the United States
Patent and Trademark Office

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